IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLN.NO.1316 OF 2007

Shri.Shabir Shakir Ansari ..Applicant

Vs.

State of Maharashtra ..Respondents

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Mr.Milan Desai i/b T.R.Patel Advocate for Applicant
Mr.S.R.Shinde A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : APRIL 25, 2007

P.C.

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant is seeking bail in C.R.No.257 of 2006 of Malwani Police Station. The said case is under Section 302 of IPC.

3. It is the prosecution case that three eye witnesses including the complainant have stated that the applicant assaulted the deceased with

knife. On perusal of post mortem notes, it is seen that two injuries are found on the body of the deceased, one injury was incised wound 6 cm x 3 cm x cavity deep and second injury is vertical incised wound on xypoid 3 cm x 1.5 cm x cavity deep.

4. The learned advocate for the applicant submitted that it is a case of grave and sudden provocation and on account of this, the incident had taken place. He submitted that in such circumstances, the case would not fall under Section 302 of IPC but it would at the most, fall under Section 304-II of IPC. Looking to the material on record, I do not find much merit in this submission.

5. It was further submitted by the learned advocate for the applicant that it was the applicant who was first assaulted and applicant assault in retaliation. In support of his contention, he has placed reliance on the arrest panchnama wherein three injuries were noted on the body of the applicant-accused. On perusal of the panchnama, it is seen that said injuries are minor in nature and on this count, I am not inclined to

grant bail. Application is rejected. The trial Court shall not be influenced by any of the observations made in this order while deciding the fresh application for bail preferred by the applicant or while deciding the trial.

6. Application is disposed of.

[Smt. V.K.Tahilramani, J.]